

JMM:BTR
F.#2014R00518

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

JOHN MCCORMICK,

Defendant.

- - - - - X

EASTERN DISTRICT OF NEW YORK, SS:

RICHARD M. MCGRADY, being duly sworn, deposes and says:

In or about and between 2001 and the date of the filing of this complaint, within the Eastern District of New York, the defendant JOHN MCCORMICK, being a public official, directly or indirectly, corruptly demands, seeks, receives, accepts and agrees to receive and accept anything of value personally, in return for being influenced to commit and aid in committing, and to collude in, and allow, any fraud, and to make opportunity for the commission of any fraud, on the United States.

(Title 18, United States Code, Section 201(b)(2)(B)).

In or about and between 2001 and the date of the filing of this complaint, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

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LONG ISLAND OFFICE

C O M P L A I N T

M. No. _____
(T. 18, U.S.C., §§
201(b)(2)(B) and
1349)

MJ-14 0905

defendant JOHN MCCORMICK, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud the United States, and to obtain money from the United States by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349).

INTRODUCTION

1. I am a Special Agent with the Department of Transportation, Office of the Inspector General ("DOT-OIG"), and have been for nearly 13 years. I have been a law enforcement official since August 1993. Prior to my current position, I was a New York City Police Department officer for approximately three years and then a federal law enforcement official for an additional six years. As a law enforcement official I have conducted numerous criminal investigations and participated in the execution of several search warrants. In addition, I have made arrests, served subpoenas, conducted surveillance, and conducted interviews. Through this training and experience, I have become familiar with

a wide variety of fraudulent schemes and the federal statutes proscribing such fraudulent activity. At DOT-OIG, I have investigated numerous crimes involving the DOT, its programs and its operating administrations, such as the Maritime Administration ("MARAD").

2. The information contained in this affidavit is based upon conversations with various law enforcement agents, witnesses, and others, as well as my personal observations and knowledge. Where statements of others are related herein, they are related in substance and in part. Because this affidavit is being submitted for the limited purpose of establishing probable cause to support the issuance of a criminal complaint, I have not included details of every aspect of this investigation.

FACTS SUPPORTING A FINDING OF PROBABLE CAUSE

Regulatory and Industry Background

3. MARAD is an agency within DOT and is charged with dealing with marine transportation in the United States. As part of MARAD's Maritime Security Program and Ready Reserve Force program, which helps to ensure the readiness of sealift capacity to respond to national crises and Department of Defense mobilizations, MARAD fully funds and operates the U.S. Merchant Marine Academy ("USMMA"). The USMMA educates and graduates

merchant marine officers ready to serve the maritime industry and the Armed Forces.

MARAD's Purchase Request Information System (PRISM) System

4. MARAD's Purchase Request Information System ("PRISM") is an Internet-based contract writing software application used to create requisitions, solicitations, and contract awards and modifications; manage those documents and their attachments; and generate reports based on the MARAD procurement and acquisition actions stored in PRISM. The PRISM database is stored and maintained on a DOT owned server located in Virginia at CompuSearch. CompuSearch wrote and maintains the PRISM system, software, and source code.

JOHN MCCORMICK

5. JOHN MCCORMICK is an employee of the USMMA, acting for or on behalf of the United States, or any department, agency or branch of Government thereof. He is therefore a public official, pursuant to 18, U.S.C. Section 201(1). JOHN MCCORMICK's title is a Planner/Estimator for the Department of Public Works ("DPW") at the USMMA. MCCORMICK's duties include developing statements of work for construction related jobs at the

USMMA, preparing independent government estimates for those jobs which estimates time and materials cost for the work. MCCORMICK is also tasked with obtaining fair market value for new contract work at the USMMA. He solicits and obtains quotes from vendors for the work, which are then submitted to the Procurement Department at the USMMA. MCCORMICK is also supposed to ensure compliance with Davis-Bacon wage requirements and also acts as the Contract Officer's Technical Representative in regard to contract work at the USMMA.

6. MCCORMICK can award work or purchases, deemed "micro-purchases", of up to \$2,000 on a government credit card. MCCORMICK is also permitted to 'sole source' contractors (or obtains less than 3 estimates); however, MCCORMICK must obtain approval from the Procurement Department beforehand.

7. MCCORMICK, as part of his official duties, has access to MARAD's PRISM system. MCCORMICK has participated in the awarding of millions of dollars in construction contracts at the USMMA.

Investigation of MCCORMICK

8. Numerous complaints have been made to DOT-IG that MCCORMICK was increasing the cost of USMMA related contracts by

fixing bids and steering USMMA contracts to contractors who would pay him cash "kickbacks."

CW1: General Contractor

9. On or about October 20, 2014, a general contractor whose identity is known to your deponent, hereafter referred to as "CW1," acting on behest of federal agents paid MCCORMICK one thousand dollars in cash at the USMMA for arranging to award CW1's company construction work at the USMMA. That payment was recorded and surveilled by federal agents. CW1 is available to testify.

10. CW1 has previously complained and detailed to federal authorities the extortionate activities of McCORMICK. CW1 stated to federal agents, the following: CW1 owns a company that performs construction work at the USMMA. CW1 has been performing work at the USMMA since the mid 2000's. CW1 indicated that it was known in the construction trades that to get contracts at the USMMA it was necessary to pay cash "kickbacks" to USMMA personnel. The defendant McCORMICK has collected cash kickbacks equal to approximately ten-percent of CW1's profit on more than a dozen contracts awarded to CW1's company at the USMMA where MCCORMICK acted as the manager for the projects. CW1 stated that to expedite the steering of contracts to CW1's company, MCORMICK

told CW1 to arrange to provide him with three bids from different companies for work at the USMMA. MCCORMICK told CW1 to submit a bid from CW1's company and two covering higher fake bids from other companies. In creating the covering fake bids, CW1 sometimes used templates from legitimate companies. CW1 would arrange to pay MCCORMICK his cash "kickback" after CW1 was paid by the USMMA for each project. CW1 also indicated that in many instances MCCORMICK would also require the use of expensive sub-contractors chosen by MCCORMICK, who CW1 indicated would also pay MCCORMICK. CW1 indicated he could have done that work himself or have had it done by his workers at a much lower cost.

CW 2: Painting Contractor

11. CW2 has a painting company that has been working at the USMMA since the late 1990's. CW2 has been paying kickbacks of between five and ten percent of the awarded contract amount on each contract for more than a decade. A search warrant of CW2's business recovered more than eight years worth of records and false covering bids submitted to obtain multiple USMMA contracts. CW2, represented by counsel, has proffered with federal agents and agreed to cooperate with federal investigators. CW2 is available to testify. CW2's practice of submitting false covering bids and paying cash kickbacks to MCCORMICK started after meeting the

defendant MCCORMICK and receiving a number of contracts in approximately 2001-2002. Cash payments have been made to the defendant MCCORMICK on over a dozen contracts by CW2. CW2 stated that to set up the scheme, MCCORMICK told CW2 to submit three bids to him, one being a bid from CW2's company and the other two being covering fake bids. CW2 stated that MCCORMICK whispered "ten percent" and used hand gestures to describe what he wanted with regard to the three bids. CW2 created the covering fake bids using false information and companies. CW2 paid MCCORMICK in cash after CW2 was paid by the USMMA for the completed project. CW2 has paid MCCORMICK for every project that MCCORMICK has referred to CW2 with the exception for projects that the Procurement Department at the USMMA had directly called CW2 for. An example of the false bids from one such contract is described below:

Sample Big Rigging: USMMA Contract DTMA-91-V-2011-0002

12. In or about February 2014, during a review of MCCORMICK's USMMA email account, Special Agents from DOT-OIG discovered an email from CW2 to MCCORMICK regarding a proposal for work at the USMMA. Attached to the email was a document titled 10.18.10. A review of the attached document indicates that it was CW2's company proposal to MCCORMICK to paint and wallpaper

Quarters "M" at the USMMA. CW2 submitted an estimated cost of the job of \$12,900.

FIRST PHONY BID: Colorworks Inc.

13. Two additional emails were found sent to MCCORMICK on 10-19-2010 regarding the Quarters "M" job. The first email was from the email account of CW2's ex-wife, and the second email was from the email account of a co-worker of CW2's ex-wife. Attached to the email was a document titled "Colorworks." A review of the attached document indicates that it was a proposal from a company called Colorworks Inc., to paint and remove wallpaper from Quarters "M" at the USMMA. The estimated cost of the job submitted in the proposal was \$16,800.00.

14. The address and phone number listed for Colorworks Inc. in the proposal sent to MCCORMICK was traced to a Jamaica, New York apartment building where a family member of CW2 is a listed tenant. There is no listing for Colorworks associated with any apartment at the Jamaica address. A review of the record for government vendors indicates that there is a Colorworks, Inc. listed as an active business located in Elizabethton, Tennessee. A description of the business indicates that it deals with "textile and fabric mills." A review of the corporation filings with the

State of New York indicate that there is an active business in New York State ("NYS") called Colorworks, Inc, in, Middletown, New York, 10940. This company advertises itself as a clothing dye studio.

SECOND PHONY BID: Dinos Katsihtis Painting Corp.

15. On or about October 19, 2010, a second bid was sent by email from the email account of an associate of CW2's ex-wife to MCCORMICK. A review of an attachment indicates that it was a proposal from a company called Dinos Katsihtis Painting Corp. to paint and remove wallpaper from Quarters "M" at the USMMA. The estimated cost of the job submitted in the proposal was \$14,550. The address and phone number listed for Dinos Katsihtis Painting Corp. ("Dinos") in the proposal sent to MCCORMICK is in Syosset, New York. According to the owner of the building at the claimed address, no office space has ever been leased to Dinos, nor has Dinos ever occupied office space at the claimed address. A review of the corporation filings with the State of New York indicates that there is an active business called Katsihtis Painting Corp, with a listed address in Seaford, New York.

16. On or about October 21, 2010, MCCORMICK submitted a requisition for funding for the Quarters "M" job. The

requisition funding amount was \$12,900.00 for CW2 and his company. As part of the request, MCCORMICK submitted the estimate he received from CW2, the estimate he received from the email account of CW2's ex-wife, and the estimate he received from the email account of the ex-wife's associate, to justify the funding request. No due diligence, inquiry or contact with the vendors concerning these various bids was ever performed. On or about November 23, 2010, CW2 and his painting company were awarded the Quarters "M" contract. The contract number was DTMA-91-V-2011-0002 and the amount of the contract was \$12,900.00. MCCORMICK was assigned as the COTR for the job to ensure that the work performed by CW2 and his company performed to the required government standards. CW2 paid the defendant MCCORMICK a cash "kickback" based on a percentage of the contract after the USMMA paid him for performing the contract.

17. The above mentioned bids and related documents regarding contract DTMA-91-V-2011-0002 which was fraudulently awarded to CW2 and his company with the assistance of MCCORMICK were subsequently uploaded and are currently stored on the MARAD PRISM server location at CompuServe in Virginia, as are all other contracts MCCORMICK was involved with.

18. Based on the debriefings of CW1 and CW2, and a review of contracts awarded to their companies that were overseen by the defendant McCormick, the agents estimate that cash kickbacks of tens of thousands of dollars were paid to the defendant MCCORMICK.

19. There is probable cause to believe that the defendant JOHN MCCORMICK knowingly accepted and submitted fake bids to the USMMA to guarantee the awarding of the contracts to CW2 and CW2. By doing this MCCORMICK caused these fake bids to be uploaded and stored on the MARAD's PRISM server location at CompuServe in Virginia. MCCORMICK also knowingly accepted a cash kickback from CW2 and CW2 to guarantee the awarding of the contracts to CW2 and CW2.

WHEREFORE, we request an arrest warrant issue charging JOHN MCCORMICK with being a public official accepting a bribe in a matter to defraud the United States, and conspiracy to commit

wire fraud in violation of Title 18, United States Code, Sections 201(b) (2) (b) and 1349.

R. M. McGrade

Richard M. McGrade
Special Agent, DOT-OIG

Sworn to before me this
24th day of October, 2014

/s/ Steven I. Locke

HONORABLE ARLENE R. LINDSAY *Steven I. Locke*
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK